

REMARKS

Reconsideration and allowance are respectfully requested. Previously the amended drawings were accepted and there are no objections to the Specification.

A Request for Continued Examination accompanies this Amendment.

The sole rejection is of Claims 1-18 as being obvious over Izaguirre (US Patent 5,305,779) in view of Leighton et al. (US Patent 6,676,382). Applicant has amended independent Claims 1, 9 and 15 and provides the following additional comments. Dependent Claims 19 and 20 are new.

The Examiner apparently has repeated his previous arguments of obviousness while adding the following two points: (1) the feature applicant points as distinguishing the art are not claimed (6/5/06 OA, page 4,) and (2) the suggestion to combine the references was made by the Examiner in the previous Office action (id. at page 5).

Regarding point (1), applicant agrees with the Examiner and has therefore amended independent Claims 1, 9 and 15 to include the identified feature—i.e., the pump is now separate from the control unit, power converter and transformer, respectively. Leighton does not have a power converter unit that is separate from the pump; this limitation is now recited by all pending claims and is believed to distinguish over the prior art. In particular, the pump of the claimed invention is powered from DC voltage after it has been converted by a power converter that is separate from the pump. To energize the pump, Leighton is always connected to an AC power source (typically 110 Volts) which can be dangerous if the pump is in water. The Examiner admits that Izaguirre fails to teach the claimed AC to DC power conversion. Thus, Claims 1-20 are considered to be allowable.

In addition to the reason for patentability identified in point (1) above, point (2) provides an independent reason to allow the claims. Applicant respectfully disagrees with the Examiner regarding the sufficiency of the alleged suggestion to combine. There is no basis for combining the references for the reasons stated in applicant's Amendment of 26 January 2006 and as further explained as follows.

Applicant has been advised by counsel that before the obviousness rejection can be sustained, the prior art itself must set forth a specific teaching that recommends combining references "in the particular manner claimed". KSR Int'l. Co. v. Teleflex, Inc.,

119 Fed.Appx. 282 (Fed.Cir. 2005), cert. granted, KSR Int'l Co. v. Teleflex, Inc., 126 S.Ct. 2965, (U.S. Jun 26, 2006)(citing cases). This rule is meant to eliminate the temptation of using “impermissible hindsight [which] is especially strong with seemingly simple mechanical inventions.” Id., citing Ruiz v. AB Chance Co., 234 F.3d 654, 665 (Fed.Cir. 2000).

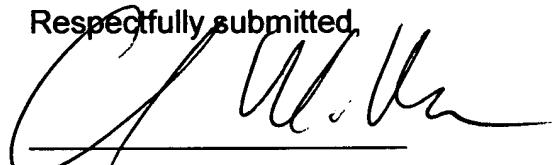
In KSR, the Federal Circuit summarized and cited to its earlier opinions which have consistently applied the principle that a claimed invention cannot be held “obvious” under 35 USC §103(a) in the absence of some established “teaching, suggestion, or motivation” that would have led a person of ordinary skill in the art to combine the relevant prior art teachings in the manner claimed”. The relevant question is whether there is a specific teaching that can be identified in the prior art (and not merely whether there is an unsupported allegation of what one skilled in the art would have known when the application was filed) to combine the references in the manner claimed. In fact, not only does the cited art not contain the required teaching, but it also teaches away from the claimed combination as explained below.

Here, as in the KSR case, there is no specific suggestion in the art that has been identified to combine the features of the cited references in the manner claimed. In KSR, the Federal Circuit concluded that the relevant problem solved by the invention was not addressed by the references relied upon, concluding that the prior art was not directed to the objective “to design a smaller, less complex and less expensive” solution. 119 Fed.Appx 282, \*288. As in KSR, neither Izaguirre nor Leighton are directed to the problem solved by the claimed invention, namely, providing a “smaller, less complex and less expensive” leak detection and removal system. In fact, Izaguirre concerns an environmental protection or containment system for “operating large power generating stations” (title) such as is used “in a hydroelectric power station located within an hydroelectric dam” (Col. 6, lines 22-30). Similarly, Leighton teaches that it must collect a substantial enough quantity of fluid in an enclosed chamber below ground level to mechanically move a float switch above the pump. In contrast, the claimed invention uses a liquid sensor that completes an electrical circuit to send an electrical signal or activate a relay (which by definition means that the sensor is non-mechanical) to pump fluid or activate a notification system. Thus, no reference alone or

in combination with others teaches the claimed invention in the manner claimed by Claims 1-18. Thus, Claims 1-18 are considered to be allowable. Newly added dependent Claims 19 and 20 are also considered to be allowable for the reasons identified above and because the telephone dialer system is not taught or suggested by the prior art of record.

All objections and rejections having been addressed, and it is respectfully submitted that this application is in condition for allowance. If the Examiner disagrees, applicant would like to request an interview with the Examiner at the Examiner's convenience.

Respectfully submitted,



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